goods. *Held,* where no contract relations exist between the seller of an article of commerce, harmless in itself, and the one injured, there must be knowledge of the alleged defect on the part of the seller before he can be held liable. *O'Neill* v. *James* (1904), — Mich. —, 101 N. W. Rep. 828.

Under the general rule the manufacturer would not be liable, but the plaintiff contended that the case came within a recognized exception, relying on the very similar case of *Weizer* v. *Holzman,* 33 Wash. 87, 73 Pac. 797, and cases there cited, most of which, however, relate to articles intrinsically dangerous; and in *Skinn* v. *Reutter,* — Mich —, 97 N. W. 152, the seller of diseased hogs was held liable to a third person for damages arising from the infection of this person's hogs, as the original selling was an act dangerous in itself. But in the principal case, the court held that the exception to the general rule did not apply. These exceptions are well stated in *Huset* v. *Case Threshing Machine Co.,* 120 Fed. Rep. 865. See also *Heizer* v. *Kingsland & Douglass Mfg. Co.,* 110 Mo. 605, and *Glazer* v. *Seitz,* 71 N. Y. Supp. 942. As to the general subject see 2 MICH. LAW REV. 151, 235, 422.

WILLS—PROOF OF LOST WILL.—It was shown that decedent's will was seen in his possession by several persons on different occasions, even as late as the day preceding his death; that the decedent had expressed his satisfaction with the will to several witnesses; that its contents could be proved; but that it could not be found after its maker's death. *Held,* not sufficient to entitle the alleged will to probate. *In re Colbert's Estate* (1904), — Mont. —, 78 Pac. Rep. 971.

In the decision of cases involving attempts to secure the probate of lost wills, the law is well settled that where the will is shown to have been in testator's possession prior to his death, and that he was mentally competent, a presumption arises, upon the failure to find the will after his death, that he destroyed the same with intention of revoking it. This presumption, however, is only prima facie and may be rebutted by proper evidence. It may sometimes be overcome by all the circumstances of the case when no one circumstance is sufficient to produce that result. *Gardner* v. *Gardner,* 177 Pa. St. 218, 35 Atl. Rep. 558. Whether or not declarations of the testator, in respect to his satisfaction with the will, are proper to be received in evidence to rebut the presumption that he destroyed it is a question upon which there is a sharply defined conflict in the authorities. In England, and in probably a majority of the states in the Union, such declarations are held to be admissable. *Sugden* v. *Lord St. Leonards,* L. R. 1 P. D. 154; *Behrens* v. *Behrens,* 47 Ohio St. 323, 25 N. E. Rep. 209, 21 Am. St. Rep. 820; *Williams* v. *Miles* (Neb.), 94 N. W. Rep. 705; *In re Valentine's Will,* 93 Wis. 45, 67 N. W. Rep. 12. On the other hand, the United States Supreme Court and some of the most eminent state courts support the ruling of the principal case that such declarations are, in their nature, purely hearsay evidence, and that they can be brought under no recognized exception to the hearsay rule; hence, they are inadmissable unless they are a part of the res gestae, or are introduced to prove the mental condition of the testator. *Throckmorton* v. *Holt,* 180 U. S. 552, 21 Sup. Ct. Rep. 474; *Matter of Kennedy,* 167 N. Y. 163, 60 N. E. Rep. 442.